

**As Passed by the Senate**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**Am. H. B. No. 223**

**Representative Dever**

**Cosponsors: Representatives Anielski, Antonio, Blessing, Boggs, Lepore-Hagan,  
Rogers, Sweeney**

**Senators Coley, Eklund, Bacon, Dolan, Hackett, Hottinger, Huffman, O'Brien,  
Oelslager, Schiavoni, Terhar, Wilson**

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**A BILL**

To amend sections 2109.41, 2323.58, 2323.581, 1  
2323.582, 2323.583, 2323.584, 2323.585, 2  
2323.586, 2323.587, and 4705.09 of the Revised 3  
Code relative to transfers of structured 4  
settlement payment rights and relative to the 5  
placement of fiduciary funds in interest on 6  
lawyer's trust accounts. 7

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 2109.41, 2323.58, 2323.581, 8  
2323.582, 2323.583, 2323.584, 2323.585, 2323.586, 2323.587, and 9  
4705.09 of the Revised Code be amended to read as follows: 10

**Sec. 2109.41.** (A) Immediately after appointment and 11  
throughout the administration of a trust, but subject to section 12  
2109.372 of the Revised Code and except as provided in division 13  
(C) of this section, every fiduciary, pending payment of current 14  
obligations of the fiduciary's trust, distribution, or 15  
investment pursuant to law, shall deposit all funds received by 16

the fiduciary in the fiduciary's name as such fiduciary in one 17  
or more depositories. Each depository shall be a bank, savings 18  
bank, savings and loan association, or credit union located in 19  
this state. A corporate fiduciary, authorized to receive 20  
deposits of fiduciaries, may be the depository of funds held by 21  
it as fiduciary. All deposits made pursuant to division (A) of 22  
this section shall be in such class of account as will be most 23  
advantageous to the trust, and each depository shall pay 24  
interest at the highest rate customarily paid to its patrons on 25  
deposits in accounts of the same class. 26

(B) The placing of funds in such depositories under the 27  
joint control of the fiduciary and a surety on the bond of the 28  
fiduciary shall not increase the liability of the fiduciary. 29

(C) A fiduciary of a trust or estate may transfer funds 30  
received by the fiduciary in the fiduciary's name as such 31  
fiduciary to the fiduciary's attorney for deposit in an interest 32  
on lawyer's trust account established under division (A) (1) (b) 33  
of section 4705.09 of the Revised Code that is maintained by the 34  
attorney if both of the following conditions are satisfied: 35

(1) The attorney, in consultation with the fiduciary, has 36  
determined that the funds are nominal in amount and will be held 37  
in the interest on lawyer's trust account for a short period of 38  
time. 39

(2) The probate court, upon petition by the fiduciary, has 40  
approved the deposit. 41

**Sec. 2323.58.** As used in this section and sections 42  
2323.581 to 2323.587 of the Revised Code: 43

(A) "Annuity issuer" means an insurer that has issued ~~an~~ 44  
~~insurance~~ a contract that is used to fund periodic payments 45

under a structured settlement. 46

(B) ~~"Applicable law~~ "Assignee" means ~~any of the following,~~  
~~as applicable in interpreting the terms of a party acquiring or~~  
~~proposing to acquire structured settlement agreement.~~ 47  
48  
49

~~(1) The laws of the United States,~~ 50

~~(2) The laws of this state, including principles of equity~~  
~~that are applied in the courts of this state,~~ 51  
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~~(3) The laws of any other jurisdiction if any of the~~  
~~following applies.~~ 53  
54

~~(a) The laws of that other jurisdiction govern the~~  
~~structured settlement.~~ 55  
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~~(b) A court or a responsible administrative authority~~  
~~approved the structured settlement agreement under the laws of~~  
~~that other jurisdiction.~~ 57  
58  
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~~(c) The transfer of payments under the structured~~  
~~settlement is subject to the laws of that other jurisdiction~~  
~~payment rights from a transferee of those rights.~~ 60  
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(C) "Dependent" ~~means~~ includes a spouse of a payee, a 63  
minor child of a payee, ~~or and~~ any other ~~member of the family of~~  
~~a payee or other person for whom, by law or by court order or~~  
~~decree,~~ the payee is legally obligated to provide support,  
including alimony. 64  
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(D) "Discounted present value" means the ~~fair~~ present 68  
value of ~~the~~ future payments ~~under a structured settlement that~~  
~~is~~ determined by discounting those payments to the present, 69  
70  
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73  
using the most recently published applicable federal rate for  
determining the present value of an annuity, as issued by the  
United States internal revenue service.

(E) "Gross advance amount" means the sum payable to the 74  
payee or for the payee's account as consideration for a transfer 75  
of structured settlement payment rights before any reductions 76  
for transfer expenses or other deductions to be made from such 77  
consideration. 78

(F) "Independent professional advice" means the advice of 79  
an attorney, a certified public accountant, an actuary, or any 80  
other licensed professional adviser ~~if all of the following~~ 81  
~~apply:~~ 82

~~(1) The payee has engaged the services of the licensed~~ 83  
~~professional adviser to render advice concerning the legal and~~ 84  
~~other implications of a transfer of structured settlement~~ 85  
~~payment rights.~~ 86

~~(2) The licensed professional adviser has signed a~~ 87  
~~statement to the effect that the licensed professional adviser~~ 88  
~~rendered advice to the payee concerning the legal and other~~ 89  
~~implications of a transfer of structured settlement payment~~ 90  
~~rights.~~ 91

~~(3) The licensed professional adviser is not affiliated in~~ 92  
~~any manner with, referred by, or compensated in any manner by~~ 93  
~~the transferee of the structured settlement payment rights.~~ 94

~~(4) The compensation of the licensed professional adviser~~ 95  
~~is not affected by whether or not a transfer of structured~~ 96  
~~settlement payment rights occurs.~~ 97

~~(F)~~ (G) "Interested party" includes the payee means, with 98  
respect to a structured settlement, the payee, any beneficiary 99  
irrevocably designated under the annuity contract to receive 100  
payments following the payee's death, the annuity issuer, the 101  
structured settlement ~~agreement~~ obligor, and any other party to 102

the structured settlement that has continuing rights or 103  
obligations to receive or make payments under the structured 104  
~~settlement agreement.~~ 105

~~(G)~~ (H) "Net advance amount" means the gross advance 106  
amount less the aggregate amount of the actual and estimated 107  
transfer expenses required to be disclosed under division (E) of 108  
section 2323.582 of the Revised Code. 109

(I) "Payee" means an individual who is receiving periodic 110  
payments under a structured settlement ~~agreement~~ that are 111  
excludable from the individual's gross income under federal 112  
income taxation laws applicable to that individual and who 113  
proposes to make a transfer of the rights to receive those 114  
periodic payments. 115

~~(H)~~ (J) "Periodic payments" includes both continuing 116  
monthly or other periodic payments and scheduled future lump-sum 117  
payments under a structured settlement. 118

~~(I)~~ (K) "Qualified assignment agreement" means an 119  
agreement that provides for a qualified assignment, as defined 120  
in section 130 of the "Internal Revenue Code of 1986," 100 Stat. 121  
2085, 26 U.S.C.A. 130(c), as amended, ~~through an assignment of~~ 122  
~~the liability under a structured settlement agreement to make~~ 123  
~~periodic payments as damages, on account of personal injury or~~ 124  
~~sickness.~~ 125

~~(J) "Responsible administrative authority" means any~~ 126  
~~government authority of another state vested by the law of that~~ 127  
~~state with the original exclusive jurisdiction over the settled~~ 128  
~~claim resolved by a structured settlement.~~ 129

~~(K) "Settled claim" means the original tort claim resolved~~ 130  
~~by a structured settlement.~~ 131

(L) "Structured settlement" means an arrangement for 132  
periodic payments of damages for ~~injury to a person~~ personal 133  
injuries or sickness that is established by a settlement or a 134  
court judgment in resolution of a tort claim. 135

(M) "Structured settlement agreement" means an agreement, 136  
judgment, stipulation, or release that embodies the terms of a 137  
structured settlement, including the rights of a payee to 138  
receive periodic payments. 139

(N) "Structured settlement obligor" means the party that 140  
has the obligation to make continuing periodic payments to the 141  
payee under a structured settlement agreement or a qualified 142  
assignment agreement. 143

(O) "Structured settlement payment rights" means the 144  
rights under a structured settlement agreement to receive 145  
periodic payments from a structured settlement obligor or an 146  
annuity issuer if either of the following applies: 147

(1) The payee, ~~the structured settlement obligor, or the~~ 148  
~~annuity issuer with respect to the structured settlement~~ 149  
~~agreement~~ is a resident of this state. 150

(2) The structured settlement agreement was approved by a 151  
court in this state. 152

(P) "Terms of a structured settlement" includes the terms 153  
of a structured settlement agreement, ~~an insurance~~ the annuity 154  
contract, a qualified assignment agreement, and any order or 155  
approval by a court, ~~a responsible administrative authority,~~ or 156  
other government authority authorizing or approving the 157  
structured settlement. 158

(Q) "Transfer" means a sale, assignment, pledge, 159  
hypothecation, or any other form of alienation or encumbrance of 160

structured settlement payment rights made by a payee for 161  
consideration. "Transfer" does not include the creation or 162  
perfection of a security interest in structured settlement 163  
payment rights under a blanket security agreement entered into 164  
with an insured depository institution, in the absence of any 165  
action to redirect the structured settlement payments to that 166  
institution, or an agent or successor in interest thereof, or 167  
otherwise to enforce the blanket security interest against the 168  
structured settlement payment rights. 169

(R) "Transfer agreement" means an agreement that provides 170  
for the transfer of structured settlement payment rights from a 171  
payee to a transferee. 172

(S) "Transfer expense" means any expense of a transfer 173  
that is required under the transfer agreement to be paid by the 174  
payee or deducted from the gross advance amount, including but 175  
not limited to, court filing fees, attorneys' fees, escrow fees, 176  
lien recordation fees, judgment and lien search fees, finder's 177  
fees, commissions, and other payments to a broker or other 178  
intermediary. "Transfer expense" does not include pre-existing 179  
obligations of the payee payable for the payee's account from 180  
the proceeds of a transfer. 181

(T) "Transferee" means a party acquiring or proposing to 182  
acquire structured settlement payment rights through a transfer 183  
~~of those rights.~~ 184

**Sec. 2323.581.** No direct or indirect transfer of 185  
structured settlement payment rights shall be effective, and no 186  
structured settlement obligor or annuity issuer shall be 187  
required to make any payment directly or indirectly to a 188  
transferee or assignee of structured settlement payment rights, 189  
unless the ~~transferee has provided the payee and other~~ 190

~~interested parties with the disclosures required by section~~ 191  
~~2323.582 of the Revised Code and the transfer has been approved~~ 192  
in advance in a final order of a court of competent jurisdiction 193  
~~in accordance with sections 2323.583 and 2323.584 of the Revised~~ 194  
~~Code~~ based on express findings by the court of all of the 195  
following: 196

(A) The transfer is in the best interest of the payee, 197  
taking into account the welfare and support of the payee's 198  
dependents. 199

(B) The payee has been advised in writing by the 200  
transferee to seek independent professional advice regarding the 201  
transfer and has either received that advice or knowingly waived 202  
in writing the opportunity to seek and receive that advice. 203

(C) The transfer does not contravene any applicable 204  
statute or order of any court or other government authority. 205

**Sec. 2323.582.** Not less than ten days prior to the date on 206  
which a payee ~~becomes obligated under~~ signs a transfer 207  
agreement, the transferee shall provide to the payee a separate 208  
disclosure statement, in boldface type of the minimum size of 209  
fourteen points, setting forth all of the following: 210

(A) The amounts and due dates of the structured settlement 211  
payments that would be transferred under the transfer agreement; 212

(B) The aggregate amount of the payments described in 213  
division (A) of this section; 214

(C) The discounted present value of the payments described 215  
in division (A) of this section, which shall be identified as 216  
the "calculation of current value of the transferred structured 217  
settlement payments under federal standards for valuing 218  
annuities," and the amount of the applicable federal rate used 219



in determining the discounted present value; 220

(D) The gross advance amount ~~payable to the payee in~~ 221  
~~exchange for or as consideration for the transfer of the~~ 222  
~~structured settlement payments described in division (A) of this~~ 223  
~~section;~~ 224

(E) An itemized listing of all ~~brokers' commissions,~~ 225  
~~service charges, application fees, processing fees, closing~~ 226  
~~costs, filing fees, administrative fees, legal fees, notary~~ 227  
~~fees, and other commissions, fees, costs, expenses, and charges~~ 228  
~~payable by the payee or deductible from the gross amount~~ 229  
~~otherwise payable to the payee as described in division (D) of~~ 230  
~~this section~~ applicable transfer expenses, other than attorneys' 231  
fees and related disbursements payable in connection with the 232  
transferee's application for approval of the transfer, and the 233  
transferee's best estimate of the amount of any such fees and 234  
disbursements; 235

(F) The net advance amount ~~payable to the payee after~~ 236  
~~deduction from the gross amount payable to the payee as~~ 237  
~~described in division (D) of this section of all commissions,~~ 238  
~~fees, costs, expenses, and charges described in division (E) of~~ 239  
~~this section;~~ 240

(G) The ~~quotient, expressed as a percentage, obtained by~~ 241  
~~dividing the net amount payable to the payee as described in~~ 242  
~~division (F) of this section by the discounted present value of~~ 243  
~~the payments described in division (C) of this section~~ effective 244  
annual interest rate, which shall be disclosed as follows: "On 245  
the basis of the net amount that you will receive from us and 246  
the amounts and timing of the structured settlement payments 247  
that you are transferring to us, you will, in effect, be paying 248  
interest to us at a rate of ..... per cent per year"; 249

(H) The aggregate amount of any penalty ~~and the aggregate~~  
~~amount of any or~~ liquidated damages, ~~including penalties,~~  
payable by the payee in the event of any breach of the transfer  
agreement by the payee;

(I) That the payee has the right to cancel the transfer  
agreement, without penalty or further obligation, not later than  
the third business day after the date the agreement is signed by  
the payee;

(J) That the payee has the right to seek and receive  
independent professional advice regarding the proposed transfer  
and should consider doing so before agreeing to transfer any  
structured settlement payment rights.

**Sec. 2323.583.** ~~A court of competent jurisdiction may~~  
~~approve~~ Following a transfer of structured settlement payment  
rights ~~only in a final order that is based on the express~~  
~~findings of the court, and the express findings shall include~~  
pursuant to sections 2323.58 to 2323.585 of the Revised Code,  
all of the following apply:

(A) ~~The transferee has provided to the payee a disclosure~~  
~~statement that complies with section 2323.582 of the Revised~~  
~~Code, and the payee has confirmed the payee's receipt of the~~  
~~disclosure statement, as evidenced by the payee's notarized~~  
~~signature on a copy of the disclosure statement~~ structured  
settlement obligor and the annuity issuer may rely on the court  
order approving the transfer in redirecting periodic payments to  
an assignee or transferee in accordance with the order approving  
the transfer and shall, as to all parties except the transferee  
or an assignee designated by the transferee, be discharged and  
released from any and all liability for the redirected payments.  
That discharge and release shall not be affected by the failure

of any party to the transfer to comply with sections 2323.58 to 280  
2323.585 of the Revised Code or with the court order approving 281  
the transfer. 282

~~(B) (1) Except as provided in division (B) (2) of this~~ 283  
~~section, the payee has established that the transfer is fair and~~ 284  
~~reasonable and in the best interests of the payee and the~~ 285  
~~payee's dependents.~~ 286

~~(2) If, on the effective date of the transfer agreement, a~~ 287  
~~federal hardship standard exists, the payee has established that~~ 288  
~~the transfer meets that hardship standard.~~ 289

~~(C) The payee has received independent professional advice~~ 290  
~~regarding the legal and other implications of the transfer.~~ 291

~~(D) If~~ The transferee shall be liable to the structured 292  
settlement obligor and the annuity issuer, as follows: 293

(1) For any taxes incurred by the structured settlement 294  
obligor or annuity issuer as a consequence of the transfer, if 295  
the transfer contravenes the terms of the structured settlement 296  
involved, all of the following have been complied with: 297

~~(1) Each dependent whom the payee is legally obligated to~~ 298  
~~support by court order or decree, in a written approval and~~ 299  
~~waiver, approves the transfer and waives the right to require~~ 300  
~~that the structured settlement payments be made to the payee in~~ 301  
~~accordance with the terms of the structured settlement.;~~ 302

~~(2) Any court or responsible administrative authority that~~ 303  
~~previously approved the structured settlement, other than the~~ 304  
~~court from which the approval of the transfer is sought under~~ 305  
~~sections 2323.58 to 2323.585 of the Revised Code, has expressly~~ 306  
~~approved the transfer in writing~~ For any other liabilities or 307  
costs, including reasonable costs and attorneys' fees, arising 308

from compliance by the structured settlement obligor or annuity 309  
issuer with the court order approving the transfer or from the 310  
failure of any party to the transfer to comply with sections 311  
2323.58 to 2323.585 of the Revised Code. 312

~~(3) The transferee has provided to the court in which the~~ 313  
~~application for approval of the transfer was filed all of the~~ 314  
~~signed original copies of the approvals required under divisions~~ 315  
~~(D) (1) and (2) of this section.~~ 316

~~(4) The transferee has furnished each interested party~~ 317  
~~copies of the approvals required under divisions (D) (1) and (2)~~ 318  
~~of this section.~~ 319

~~(E) The transferee has given written notice of the~~ 320  
~~transferee's name, address, and taxpayer identification number~~ 321  
~~to the annuity issuer and the structured settlement obligor and~~ 322  
~~has filed a copy of that notice with the court in which the~~ 323  
~~application for approval of the transfer was filed.~~ 324

~~(F) The~~ (C) Neither the annuity issuer nor the structured 325  
settlement obligor may be required to divide any periodic 326  
payment between the payee and any transferee or assignee or 327  
between two or more transferees or assignees. 328

(D) Any further transfer of structured settlement payment 329  
rights by the payee may be made only if the transfer complies 330  
with all of the requirements of sections 2323.58 to 2323.585 of 331  
the Revised Code ~~and does not contravene any applicable law.~~ 332

**Sec. 2323.584.** (A) A ~~person~~ transferee shall file an 333  
application under sections 2323.58 to 2323.585 of the Revised 334  
Code for the approval in advance of a transfer of structured 335  
settlement payment rights in the probate division of the court 336  
of common pleas of the county in which the payee resides, except 337

that if the structured settlement agreement was approved by a 338  
court of common pleas or other Ohio state court, the application 339  
shall be filed in the Ohio state court that approved the 340  
structured settlement agreement. ~~If the structured settlement~~ 341  
~~agreement was not approved by an Ohio court, a person shall file~~ 342  
~~an application under sections 2323.58 to 2323.585 of the Revised~~ 343  
~~Code for the approval in advance of a transfer of structured~~ 344  
~~settlement payment rights in the probate division of the court~~ 345  
~~of common pleas of the county in which the payee, the structured~~ 346  
~~settlement obligor, or the annuity issuer resides.~~ 347

(B) The following procedures shall apply to an application 348  
for the approval in advance by a court of a transfer of 349  
structured settlement payment rights under division (A) of this 350  
section: 351

(1) ~~Upon the filing of the application, the~~ The court 352  
~~shall set a date and time for hold a~~ timely hearing on the 353  
~~application and shall notify the transferee of the date, time,~~ 354  
~~and place of the hearing.~~ The payee shall appear in person at 355  
the hearing unless the court determines that good cause exists 356  
to excuse the payee from appearing in person. 357

(2) Not less than twenty days prior to the date set by the 358  
court for the hearing on an application filed pursuant to this 359  
section, the transferee shall file with the court and shall 360  
~~serve on the court or any responsible administrative authority~~ 361  
~~that previously approved the structured settlement, on all~~ 362  
~~interested parties, and on the annuity issuer and the structured~~ 363  
~~settlement obligor~~ including a parent or other guardian or 364  
authorized legal representative of any interested party who is 365  
not legally competent, in the manner prescribed in the Rules of 366  
Civil Procedure for the service of process, a notice of the 367

proposed transfer and the application for its approval in 368  
advance. The notice shall include all of the following: 369

(a) A copy of the application; 370

(b) A copy of the transfer agreement; 371

(c) A copy of the disclosure statement provided by the 372  
transferee pursuant to section 2323.582 of the Revised Code ~~and~~ 373  
~~signed by the payee pursuant to division (A) of section 2323.583~~ 374  
~~of the Revised Code;~~ 375

(d) The payee's name, age, and county of residence and the 376  
number and ages of each of the payee's dependents; 377

(e) A summary of both of the following: 378

(i) Any prior transfers by the payee to the transferee or 379  
an affiliate, or through the transferee or an affiliate to an 380  
assignee, within the four years preceding the date of the 381  
transfer agreement and any proposed transfers by the payee to 382  
the transferee or an affiliate, or through the transferee or an 383  
affiliate to an assignee, applications for approval of which 384  
were denied within the two years preceding the date of the 385  
transfer agreement; 386

(ii) Any prior transfers by the payee to any person or 387  
entity other than the transferee or an affiliate, or an assignee 388  
of the transferee or an affiliate, within the three years 389  
preceding the date of the transfer agreement and any prior 390  
proposed transfers by the payee to any person or entity other 391  
than the transferee or an affiliate, or an assignee of a 392  
transferee or affiliate, applications for approval of which were 393  
denied within the one year preceding the date of the current 394  
transfer agreement, to the extent that the transfers or proposed 395  
transfers have been disclosed to the transferee by the payee in 396

writing or otherwise are actually known to the transferee. 397

(f) Notification of the date, time, and place of the 398  
hearing on the application; 399

~~(e)~~-(g) Notification that any interested party may 400  
support, oppose, or otherwise respond to the application, either 401  
in person or by counsel, by submitting to the court a written 402  
response containing the interested party's support of, 403  
opposition to, or comments on the application or by 404  
participating in the hearing; 405

~~(f)~~-(h) Notification of the manner of filing a written 406  
response to the application and the time within which the 407  
response is required to be filed, which time shall be not less 408  
than fifteen days after the service of the transferee's notice, 409  
in order for the court to consider it. 410

~~(3) Within fifteen days after receipt of the notice~~ 411  
~~described in division (B) (2) of this section, any interested~~ 412  
~~party who wishes to respond to the application shall file a~~ 413  
~~written response with the court personally or by certified mail,~~ 414  
~~return receipt requested.~~ 415

~~(4) At the conclusion of the hearing on an application~~ 416  
~~under this section, the court may grant or deny the approval of~~ 417  
~~the transfer. The court shall enter its order accordingly. If~~ 418  
~~the court grants the approval of the transfer, it shall include~~ 419  
~~in its order all of the express findings specified in section~~ 420  
~~2323.583 of the Revised Code. If the court denies the approval~~ 421  
~~of the transfer, it shall include in its order the reasons for~~ 422  
~~the denial.~~ 423

~~(5) An order of the court made under division (B) (4) of~~ 424  
~~this section is a final and appealable order.~~ 425

**Sec. 2323.585.** (A) No payee who proposes to make a 426  
transfer of structured settlement payment rights shall incur any 427  
penalty, forfeit any application fee or other payment, or 428  
otherwise incur any liability to the proposed transferee or any 429  
assignee based on a failure of the transfer to comply with any 430  
of the requirements of sections 2323.581 to 2323.584 of the 431  
Revised Code. 432

(B) No provision of this section or section 2323.581, 433  
2323.582, 2323.583, or 2323.584 of the Revised Code may be 434  
waived by any payee. 435

(C) No provision of this section or section 2323.581, 436  
2323.582, 2323.583, or 2323.584 of the Revised Code authorizes 437  
any transfer of structured settlement payment rights in 438  
contravention of applicable law or ~~gives effect to~~ implies that 439  
~~any transfer of structured settlement payment rights that is~~ 440  
~~void under any applicable law~~ under a transfer agreement that 441  
was entered into prior to the effective date of this amendment 442  
is valid or invalid. 443

(D) Any transfer agreement entered into on or after the 444  
effective date of this amendment by a payee who resides in this 445  
state shall provide that disputes under the transfer agreement, 446  
including any claim that the payee has breached the agreement, 447  
are to be determined in and under the laws of this state. No 448  
such transfer agreement shall authorize the transferee or any 449  
other party to confess judgment or consent to entry of judgment 450  
against the payee. 451

(E) No transfer of structured settlement payment rights 452  
shall extend to any payments that are life-contingent unless, 453  
prior to the date on which the payee signs the transfer 454  
agreement, the transferee has established and has agreed to 455



maintain procedures reasonably satisfactory to the annuity 456  
issuer and the structured settlement obligor for both of the 457  
following: 458

(1) Periodically confirming the payee's survival; 459

(2) Giving the annuity issuer and the structured 460  
settlement obligor prompt written notice in the event of the 461  
payee's death. 462

(F) If the payee cancels a transfer agreement, or if the 463  
transfer agreement otherwise terminates, after an application 464  
for approval of a transfer of structured settlement payment 465  
rights has been filed and before it has been granted or denied, 466  
the transferee shall promptly request dismissal of the 467  
application. 468

**Sec. 2323.586.** The Compliance with section 2323.582 of the 469  
Revised Code and the fulfillment of the conditions set forth in 470  
section 2323.581 of the Revised Code shall be solely the 471  
responsibility of the transferee in any transfer of structured 472  
settlement payment rights, and neither the structured settlement 473  
obligor and nor the annuity issuer under a transfer or transfer- 474  
agreement are immune from shall bear any responsibility for, or 475  
any liability based upon any claim by the payee, or any party, 476  
other than a transferee, claiming through the payee, as to any 477  
structured settlement payment rights or periodic payments that 478  
are the subject of the transfer or transfer agreement arising 479  
from, noncompliance with the requirements or failure to fulfill 480  
the conditions. 481

**Sec. 2323.587.** A violation of or failure to comply with 482  
section 2323.581, 2323.582, 2323.583, 2323.584, 2323.585, or 483  
2323.586 of the Revised Code is an unfair or deceptive act or 484

practice in violation of section 1345.02 of the Revised Code.

**Sec. 4705.09.** (A) (1) (a) Any person admitted to the  
practice of law in this state by order of the supreme court in  
accordance with its prescribed and published rules, or any law  
firm or legal professional association, may establish and  
maintain an interest-bearing trust account, for purposes of  
depositing client funds held by the attorney, firm, or  
association that are nominal in amount or are to be held by the  
attorney, firm, or association for a short period of time, with  
any bank, savings bank, or savings and loan association that is  
authorized to do business in this state and is insured by the  
federal deposit insurance corporation or the successor to that  
corporation, or any credit union insured by the national credit  
union administration operating under the "Federal Credit Union  
Act," 84 Stat. 994 (1970), 12 U.S.C.A. 1751, or insured by a  
credit union share guaranty corporation established under  
Chapter 1761. of the Revised Code. Each account established  
under this division shall be in the name of the attorney, firm,  
or association that established and is maintaining it and shall  
be identified as an IOLTA or an interest on lawyer's trust  
account. The name of the account may contain additional  
identifying features to distinguish it from other trust accounts  
established and maintained by the attorney, firm, or  
association.

(b) Any person admitted to the practice of law in this  
state by order of the supreme court in accordance with its  
prescribed and published rules, or any law firm or legal  
professional association, may establish and maintain an  
interest-bearing trust account, for purposes of depositing funds  
received by a client, in the client's name as fiduciary of a  
trust or estate, with any bank, savings bank, or savings and

loan association that is authorized to do business in this state 516  
and is insured by the federal deposit insurance corporation or 517  
the successor to that corporation, or any credit union insured 518  
by the national credit union administration operating under the 519  
"Federal Credit Union Act," 84 Stat. 994 (1970), 12 U.S.C.A. 520  
1751, or insured by a credit union share guaranty corporation 521  
established under Chapter 1761. of the Revised Code. Each 522  
account established under this division shall be in the name of 523  
the attorney, firm, or association that established and is 524  
maintaining it and shall be identified as an IOLTA or an 525  
interest on lawyer's trust account. The name of the account 526  
shall contain additional identifying features to distinguish it 527  
from other trust accounts established and maintained by the 528  
attorney, firm, or association and to distinguish it from an 529  
IOLTA established and maintained under division (A) (1) (a) of 530  
this section. 531

No funds received by a client, in the client's name as 532  
fiduciary of a trust or estate, shall be deposited into an IOLTA 533  
established under division (A) (1) (b) of this section unless the 534  
deposit has been approved by the probate court under section 535  
2109.41 of the Revised Code. 536

Notwithstanding any contrary provision in Chapter 2109. of 537  
the Revised Code, a probate court examining a trust or estate 538  
may only access the account information of an IOLTA created 539  
under this section for purposes of obtaining information related 540  
to that particular trust or estate and shall not access records 541  
of the IOLTA that pertain to assets of any other estate or trust 542  
held in the IOLTA. 543

(2) Each attorney who receives funds belonging to a client 544  
shall do one of the following: 545

(a) Establish and maintain one or more interest-bearing 546  
trust accounts in accordance with division (A)(1) of this 547  
section or maintain one or more interest-bearing trust accounts 548  
previously established in accordance with that division, and 549  
deposit all client funds held that are nominal in amount or are 550  
to be held by the attorney for a short period of time in the 551  
account or accounts; 552

(b) If the attorney is affiliated with a law firm or legal 553  
professional association, comply with division (A)(2)(a) of this 554  
section or deposit all client funds held that are nominal in 555  
amount or are to be held by the attorney for a short period of 556  
time in one or more interest-bearing trust accounts established 557  
and maintained by the firm or association in accordance with 558  
division (A)(1) of this section. 559

(3) No funds belonging to any attorney, firm, or legal 560  
professional association shall be deposited in any interest- 561  
bearing trust account established under division (A)(1) or (2) 562  
of this section, except that funds sufficient to pay or enable a 563  
waiver of depository institution service charges on the account 564  
shall be deposited in the account and other funds belonging to 565  
the attorney, firm, or association may be deposited as 566  
authorized by the Code of Professional Responsibility adopted by 567  
the supreme court. The determinations of whether funds held are 568  
nominal or more than nominal in amount and of whether funds are 569  
to be held for a short period or longer than a short period of 570  
time rests in the sound judgment of the particular attorney. No 571  
imputation of professional misconduct shall arise from the 572  
attorney's exercise of judgment in these matters. 573

(B) All interest earned on funds deposited in an interest- 574  
bearing trust account established under division (A)(1) or (2) 575

of this section shall be transmitted to the treasurer of state 576  
for deposit in the legal aid fund established under section 577  
120.52 of the Revised Code. No part of the interest earned on 578  
funds deposited in an interest-bearing trust account established 579  
under division (A) (1) or (2) of this section shall be paid to, 580  
or inure to the benefit of, the attorney, the attorney's law 581  
firm or legal professional association, the client or other 582  
person who owns or has a beneficial ownership of the funds 583  
deposited, or any other person other than in accordance with 584  
this section, section 4705.10, and sections 120.51 to 120.55 of 585  
the Revised Code. 586

(C) No liability arising out of any act or omission by any 587  
attorney, law firm, or legal professional association with 588  
respect to any interest-bearing trust account established under 589  
division (A) (1) or (2) of this section shall be imputed to the 590  
depository institution. 591

(D) The supreme court may adopt and enforce rules of 592  
professional conduct that pertain to the use, by attorneys, law 593  
firms, or legal professional associations, of interest-bearing 594  
trust accounts established under division (A) (1) or (2) of this 595  
section, and that pertain to the enforcement of division (A) (2) 596  
of this section. Any rules adopted by the supreme court under 597  
this authority shall conform to the provisions of this section, 598  
section 4705.10, and sections 120.51 to 120.55 of the Revised 599  
Code. 600

**Section 2.** That existing sections 2109.41, 2323.58, 601  
2323.581, 2323.582, 2323.583, 2323.584, 2323.585, 2323.586, 602  
2323.587, and 4705.09 of the Revised Code are hereby repealed. 603

**Section 3.** Sections 2323.58, 2323.581, 2323.582, 2323.583, 604  
2323.584, 2323.585, 2323.586, and 2323.587 of the Revised Code, 605

as amended by this act, shall apply to a transfer of structured	606
settlement payment rights under any transfer agreement entered	607
into on or after the effective date of this act.	608